

In 1994 and 1995, the White House had written policies on the propriety of contacting administrative departments or agencies about pending matters. Each year, the Counsel's Office provided guidance to all White House employees on these policies. In addition, staff routinely sought, and attorneys in the Counsel's Office routinely provided, advice regarding the application of those policies, such as when Avent enlisted the assistance of then-Associate Counsel Cheryl Mills in connection with O'Connor's calls to Avent in April 1995.

The written White House contacts policies turned largely on the nature of the agency or department and the nature of the pending matter that was the subject of the inquiry. For instance, any contact with an independent department or agency, such as the Federal Election Commission or the Federal Communications Commission, had to be cleared through the White House Counsel's Office, regardless of the nature of the inquiry. The policy was less strict if the contemplated contact was with an executive branch department or agency, such as the Interior Department. In that case, the policy depended on the nature of the matter pending at the department or agency. If the matter was a rule-making proceeding and the contemplated contact was not intended to influence the outcome of the proceeding (*e.g.*, a status inquiry), White House staff could make the contact without approval from the Counsel's Office.<sup>334</sup>

If, however, the contemplated contact involved a pending adjudication at an executive branch department or agency, the contact was prohibited absent prior approval from the Counsel's Office, and even then the contact had to be made by the Counsel's Office, not the White House staff member. That policy was set forth in a memorandum dated Nov. 10, 1994,

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<sup>334</sup>In such a case, though, the policy required the White House staff member making the contact to state at the outset of the communication that the purpose of the contact was not to influence the outcome of the rulemaking proceeding.